

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

KATHY JENNINGS,

Plaintiff,

v.

KEANDRA RAY, KRISTINA KELLY, and
their unknown associates with them on
August 29 and September 3, 2021,

Defendants.

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: C.A. No.
: 2021-0766-KSJM
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Chambers
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Tuesday, September 7, 2021
10:00 a.m.

- - -

BEFORE: HON. KATHALEEN St. J. McCORMICK, Chancellor

- - -

TELECONFERENCE RE PLAINTIFF'S MOTION FOR A TEMPORARY
RESTRAINING ORDER AND MOTION TO EXPEDITE PROCEEDINGS
AND THE COURT'S RULINGS

CHANCERY COURT REPORTERS
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware 19801
(302) 255-0521

1 APPEARANCES:

2 PATRICIA A. DAVIS, ESQ.
3 State of Delaware, Department of Justice
4 for Plaintiff

4 KEANDRA RAY, *PRO SE*

5 KRISTINA KELLY, *PRO SE*

6 ALSO PRESENT:

7 RENEE LEVERETTE, ESQ.
8 The Igwe Firm
9 -and-
10 EMEKA IGWE, ESQ.
11 of the Pennsylvania Bar
12 The Igwe Firm

11 RICHARD T. SMITH
12 NAACP

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1 THE COURT: Hello. This is Kathaleen
2 McCormick. Can I get appearances for the record,
3 please?

4 MS. DAVIS: Good morning, Your Honor.
5 Patricia Davis on behalf of the Delaware Department of
6 Justice.

7 THE COURT: Thank you, Ms. Davis.

8 I note that I hear something that
9 sounds like a metronome clicking on my end of the
10 phone sometimes. Do others hear that?

11 MS. DAVIS: I do hear that.

12 MS. RAY: Yes.

13 THE COURT: So maybe everybody who is
14 not speaking, mute your lines, and see if that helps.

15 Well, that's the only fix I knew. So
16 we'll keep going and see if we can work through it.

17 Do we have representatives of the
18 defendants or the defendants on the line?

19 MS. KELLY: You have Kristina Kelly
20 and Keandra Ray.

21 THE COURT: Good morning.

22 I understand Mr. Igwe intended to join
23 today.

24 MR. IGWE: That's correct.

1 MS. LEVERETTE: Yes.

2 MR. IGWE: I'm sorry.

3 MS. LEVERETTE: This is Renee
4 Leverette. I'm on the phone as well with Mr. Igwe.
5 We're both from The Igwe Firm.

6 THE COURT: Thank you.

7 And Ms. Leverette or Mr. Igwe, are you
8 representing any of the defendants?

9 MR. IGWE: No. We don't represent any
10 of the defendants. However, we do represent someone
11 who is indirectly involved. It's the administrator of
12 the Estate of Lymond Moses. As to the extent that
13 anything that's issued here affects that case, we
14 thought it would be prudent to be on.

15 THE COURT: Thank you.

16 I understand that before this call,
17 members of the press sought the dial-in and we
18 provided it, so they may also be on the line.

19 So I wanted to start by saying a few
20 things. First of all, I recognize that this is a
21 jarring way to re-enter the workweek after a holiday
22 weekend, so I thank you for your time and attention to
23 this matter.

24 Secondly, Ms. Ray and, you know --

1 well, to both defendants, if you -- Ms. Kelly and
2 Ms. Ray, if you desire *pro bono* counsel to assist you
3 with this case, there are a number of attorneys in
4 Delaware who I'm sure --

5 MS. KELLY: No, we don't need *pro*
6 *bono*, but we do need an appropriate amount of time to
7 be able to obtain an attorney since we were served on
8 a holiday.

9 THE COURT: Right. We'll talk about
10 that over the course of the morning. But if you need
11 someone to talk to these firms for you to help retain
12 counsel, I'd be happy to do that. It sounds like
13 you're all set, but I wanted to make that offer at the
14 outset.

15 So with that, let's allow the Attorney
16 General's counsel to proceed.

17 Ms. Davis, it's your motion.

18 MS. DAVIS: Thank you, Your Honor.

19 For the past several months, the
20 defendants have been gathering just about every Sunday
21 outside of the homes of numerous elected officials,
22 including the Attorney General. And what began as
23 peaceful organized picketing, you know, over the
24 course of the month has now degraded. And over the

1 past few weeks, what we've seen, just about every
2 Sunday, has been a group of approximately five to ten
3 individuals wandering in front of homes, with lawn
4 chairs and bullhorns that they will use occasionally
5 to shout something towards the Attorney General's
6 home.

7 Now, the Attorney General is an
8 elected official. And the background that I just
9 provided you is not why we're here. We are here
10 because, on Sunday, August 29th, these defendants
11 appeared for the first time in front of the home of
12 Mark Denney. Mark Denney is a DAG, just like myself.
13 He is not an elected official.

14 And on Sunday, August 29th, the
15 defendants appeared in front of Mr. Denney's home, and
16 while they were there, engaging in the same type of
17 behavior, they also were videotaping themselves and
18 uploading that video to Facebook. And we know from
19 that video that they were videotaping Mr. Denney as he
20 attempted to take his two small children out his front
21 door, get them situated into his car, and drive away.

22 Within a few hours, the defendants
23 dispersed, and then again on the 29th, that evening,
24 they returned.

1 Now, over the course of the past week,
2 since the 29th, my office has endeavored to reach out
3 to the defendants. Because of the turn that their
4 behavior has taken since August 29th, the Department
5 of Justice has reached out to intermediary parties and
6 implored them to speak with the defendants about their
7 targeting of Mr. Denney. We reached out to elected
8 officials, to NAACP leadership, and to attorneys
9 associated with the defendants. But the defendants.

10 (Overlapping speakers)

11 UNIDENTIFIED SPEAKER: That attorney
12 was not associated with us.

13 THE COURT: If whoever is speaking
14 besides Ms. Davis could please mute your line, I would
15 appreciate it. If it's one of the parties, you'll
16 have a chance to speak later. Thank you.

17 Ms. Davis, please continue.

18 MS. DAVIS: Thank you, Your Honor.

19 The defendants would not listen to
20 reason. On Friday, September 3rd, the defendants
21 returned to Mr. Denney's house. Again, we can see
22 from the video, they set up lawn chairs, brought bags
23 of food, and yelled through a bullhorn at his home.

24 Concerningly, this time, they were

1 yelling, "We're coming for you, Denney." Again, this
2 focus, this gathering, seems to be less on protesting
3 and it is more akin to harassment.

4 The videos have been uploaded to
5 Facebook. Now, Your Honor, since the uploading and
6 the viewing of those videos, Facebook has removed them
7 as violating their terms and conditions. My office is
8 undertaking to try to get those secured.

9 Repeatedly, however, on those videos,
10 what you will see, you will see the defendants
11 acknowledge that they have been contacted by
12 represented officials who have asked them not to
13 target Mr. Denney and his home. You will see them
14 acknowledge that they are scaring Mr. Denney's
15 neighbors. And you will see them walk up onto the
16 front lawn of Mr. Denney's home, place signs in his
17 yard, and photograph themselves in his front yard.

18 Now, most concerning to the Attorney
19 General on that September 3rd video are the comments
20 that are made that the defendants know where
21 Mr. Denney's parents live and that they feel they may
22 have to visit them next. And it is the most recent
23 behavior that has been targeted towards Mr. Denney
24 that brings us here today.

1 What the Attorney General is asking
2 for is a temporary restraining order limiting the
3 defendants from engaging in this behavior. What we
4 are asking for is we ask that they be limited to a
5 300-foot perimeter from Mr. Denney's home and the home
6 of any member of his family. In that way, Mr. Denney
7 will be able to get his children in and out of his
8 front door. He'll be able to get them loaded into his
9 car without harassment and get on his way.

10 However, the defendants will still be
11 able to have their message heard, as we are not asking
12 that they be banned from the protesting. We are
13 asking for a reasonable limitation around his home and
14 the home of his family members.

15 Upon information and belief, Your
16 Honor, this protesting has not been permitted.

17 I'm sorry, Your Honor. I'm getting a
18 lot of feedback on my end.

19 THE COURT: Yes. You're echoing. I
20 think it has something to do with the dial-in that was
21 provided. I'll leave it to you as to whether you want
22 to push through or if you'd like for us to attempt to
23 dial back in or use a separate line.

24 MS. DAVIS: If you can hear me, Your

1 Honor, I'll push through.

2 THE COURT: I can hear you.

3 MS. DAVIS: Okay. Thank you.

4 Again, upon information and belief,
5 the defendants have not obtained a permit for any of
6 these gatherings from the County. And we are asking
7 that they be required to just notify County Police
8 within 24 hours of their intent to gather.

9 Now, the Supreme Court has recognized
10 that protesting may be enjoined when that protest
11 prevents the effectuation of a public policy. That's
12 the *Teamsters* decision referenced in the opening
13 brief. And here, the public policy at issue is the
14 residential privacy of persons within their own home
15 and the State's interest in protecting the tranquility
16 of private citizens within their own home.

17 The Supreme Court of the United States
18 has recognized that this is a significant governmental
19 interest. And that's the *Madsen* decision that's also
20 referenced in our brief.

21 I can't be more clear about this, Your
22 Honor. The Attorney General today seeks a temporary
23 restraining order, not a ban on protesting, not a ban
24 on protesting Mr. Denney. We are just asking for a

1 temporary order that the defendants be required to
2 give Mr. Denney's home and any member of his family's
3 home a 300-foot berth so that they may quietly enjoy
4 their residences.

5 We are asking for notice to the New
6 Castle County Police within 24 hours before they plan
7 to assemble. We are not even asking them to go
8 through the entire permitting process. But by
9 circumventing that process, there is no oversight.
10 And so we are just asking for 24 hours' notice to the
11 New Castle County Police as to what times they intend
12 to be there, how many people they intend to bring, so
13 that the police can make the decision as to whether or
14 not they need to be present as well.

15 In addition to the temporary
16 restraining order, Your Honor, we are seeking
17 expedited proceedings today so that we can get through
18 the briefing and get a resolution on this.

19 Thank you.

20 THE COURT: Thank you, Ms. Davis.

21 So I recognize, Ms. Ray and Ms. Kelly,
22 that you do not have counsel. Would you like to speak
23 as to the pending motion for a temporary restraining
24 order and the motion to expedite?

1 MR. SMITH: They need counsel first.

2 MS. KELLY: Yes, we need counsel, but

3 I do want --

4 MS. RAY: I need counsel. I don't

5 want --

6 MR. SMITH: Ms. Kelly, don't say
7 nothing. Don't say nothing. You need counsel first.

8 THE COURT: I'm sorry. Who is
9 speaking?

10 MR. SMITH: Richard Smith for the
11 NAACP.

12 MS. RAY: We're being denied our right
13 to counsel.

14 THE COURT: Well, you're not.

15 THE COURT REPORTER: I don't know who
16 is speaking.

17 THE COURT: Let me stop.

18 Okay. Mr. Smith, you're not a party
19 to this action. I appreciate all you do.

20 MR. SMITH: My name was mentioned.

21 THE COURT: But I'm directing the
22 question to Ms. Kelly and Ms. Ray.

23 Ms. Kelly and Ms. Ray, I recognize --

24 MR. SMITH: Sorry, Your Honor.

1 THE COURT: Thank you, Mr. Smith. If
2 you could now mute your line, I would appreciate it.

3 MR. SMITH: Yeah, Your Honor.

4 THE COURT: So, Ms. Kelly and Ms. Ray,
5 I recognize that you were served with these papers
6 yesterday and it's a holiday weekend. If you want to
7 speak, you may.

8 I started this hearing saying I'm
9 happy to help line up counsel for you, even on a
10 *pro bono* basis. So I recognize that it's a difficulty
11 for you. But that said, if you want to speak, you
12 may. I'm giving you the opportunity.

13 MS. RAY: The only thing that I would
14 like to go on record is I need time to obtain legal
15 counsel to continue to go on with this case right now.

16 THE COURT REPORTER: Is that Ms. Ray,
17 please?

18 MS. RAY: I'm sorry, Your Honor. Yes.
19 This is Keandra Ray.

20 THE COURT REPORTER: Thank you.

21 THE COURT: Thank you. That was the
22 court reporter. She just needs a clear record of the
23 proceedings.

24 All right. Is anyone else present on

1 the line who would like to address the Court?

2 Okay. Thank you.

3 I am prepared to rule on the pending
4 motion for a temporary restraining order and the
5 motion to expedite the case.

6 Okay. So I'm going to start with some
7 factual background. And here's the deal. When we
8 resolve motions like this, the Court's obligation is
9 to accept as true the allegations on the face of the
10 pleadings. And so the factual background will draw
11 from those pleadings, but they have not been proven,
12 and these are not factual findings. Ms. Ray and
13 Ms. Kelly will have an opportunity to address those
14 allegations in due course.

15 So let me begin. This case arises
16 from the tragic events of January 13, 2021, when
17 Lymond Moses was shot and killed by New Castle County
18 Police officers. The events of January 13th resulted
19 in protests concerning the use of police force, and
20 the defendants, Keandra McDole Ray and Kristina Kelly,
21 are among those engaged in protests.

22 According to the plaintiff, the
23 defendants have protested regularly in 2021, almost
24 always in residential neighborhoods, and outside of

1 the homes of elected officials, including Governor
2 Carney, Mayor Purzycki, and the plaintiff, Attorney
3 General Jennings. In recent weeks, they have moved on
4 to target Deputy Attorney General Mark Denney, who is
5 in charge of the Department of Justice's Division of
6 Civil Rights and Public Trust and involved in the
7 investigation of the police conduct surrounding
8 Mr. Moses' death.

9 I'll summarize the specific
10 allegations raised by the plaintiff concerning the
11 defendants' involvement in protests in front
12 Mr. Denney's house.

13 On August 29, 2021, at 11:30 a.m., the
14 defendants, along with two of their associates, were
15 outside of the Denneys' home, which is in a
16 residential suburb. The defendants were yelling,
17 amplifying their voice using a bullhorn, and honking
18 their vehicles' horns. These allegations are based in
19 part on the livestreamed videos of their activities
20 which were posted on Facebook.

21 I'm told that the defendants stated to
22 law enforcement officers on the scene that their
23 intent was to harass Denney's neighbors and cause as
24 much of a disturbance as possible. That's an unproven

1 allegation, but I state it for the record.

2 After law enforcement parked at the
3 end of the Denneys' street, Denney left his residence
4 with his two young children. The defendants left the
5 scene but later that day returned to Denney's home
6 with an associate at 4:45 p.m., and one of the
7 defendants was observed driving past his house at 5:30
8 later that day.

9 The defendants repeated this behavior
10 on September 3, 2021. During a livestream video of
11 the September 3rd activities, they can be heard
12 shouting repeatedly toward Denney's home things like,
13 "We're coming for you, Mark." "We're back Mark." "Do
14 your job." And they can also be heard stating that
15 "his mama [is] in Hockessin; Pop's got a business."
16 The defendants suggested that they might have to go to
17 Mr. Denney's parents' house next. Also on
18 September 3rd, they can be seen on video walking onto
19 Mr. Denney's property -- his front yard -- placing
20 signs and photographing themselves.

21 The plaintiff filed this lawsuit on
22 September 5, 2021, seeking an injunction imposing
23 restrictions on the protests outside of Denney's home.
24 That was a holiday weekend. It was late on Sunday on

1 Labor Day weekend when the filing came in.

2 With that filing, the plaintiff moved
3 for a temporary restraining order prohibiting the
4 defendants from picketing in any form within 300 feet
5 from the property line of any home owned or occupied
6 by Mr. Denney or a member of his family and requiring
7 the defendants to notify the New Castle County Police
8 Department 24 hours in advance of any intended
9 instance of picketing outside of Denney's home, along
10 with the number of anticipated picketers.

11 The Attorney General has also moved to
12 expedite these proceedings.

13 This is my bench ruling resolving both
14 the motion for a temporary restraining order and the
15 motion to expedite proceedings.

16 I'll turn first to the TRO request.

17 I'm denying the motion for a temporary
18 restraining order in view of the limited record before
19 me, which is the result of the procedural vehicle that
20 the plaintiff selected to bring these arguments
21 forward. While our law permits entry of a temporary
22 restraining order, *ex parte* even, where the movant has
23 demonstrated a colorable claim, irreparable injury if
24 the injunctive relief is denied, and that the

1 hardships tip in the movant's favor, courts are
2 reticent to enter such extraordinary relief where
3 constitutionally protected rights are affected.

4 I received the plaintiff's papers late
5 Sunday night -- just like most of you, over the
6 weekend -- and spent yesterday getting up to speed on
7 the constitutional issues implicated. While I do not
8 profess to be a scholar in this subject, I reviewed a
9 number of cases standing for the proposition that
10 injunctions affecting constitutionally protected
11 rights should not issue on limited records like that
12 presented here.

13 One case jumped out at me as
14 particularly compelling. That's the 1968 decision of
15 the Supreme Court of the United States captioned
16 *Carroll v. President and Commissioners of Princess*
17 *Anne County*. In that case, a white supremacist
18 organization stated that they planned to have a rally
19 the next day. And on the planned date of the rally,
20 the County authorities obtained an *ex parte* TRO. No
21 notice was given to the group of protestors. On
22 appeal, the high court stopped short of espousing a
23 bright-line rule prohibiting *ex parte* TROs that
24 restrict speech, but the Court reversed the holding of

1 the trial court on the grounds that basic freedoms
2 granted by the First Amendment require notice or
3 showing that notice is impossible, and an opportunity
4 to participate, with the latter element necessary for
5 the court to fashion the scope of any remedy.

6 In this case, while informal efforts
7 have been made to notify the defendants and, indeed,
8 the defendants were able to appear for today's
9 hearing, the timing is such that they have not had a
10 meaningful opportunity to participate in these
11 proceedings.

12 Moreover, if the high court viewed the
13 truly hateful actions of the white supremacist
14 organization acting in the *Carroll* case as
15 insufficiently alarming to warrant an *ex parte* TRO or
16 an exception to the general rule, then the alleged
17 conduct of the defendants in this case certainly do
18 not warrant an exception.

19 So the motion for a TRO is denied.

20 I will say that I view some level of
21 expedition of this case is warranted, and I'll turn
22 now to evaluating that motion, starting with the
23 relevant standard.

24 The standard for obtaining expedited

1 relief is similar to the standard for obtaining a TRO
2 in that the movant must show the existence of a
3 colorable claim and sufficient possibility of
4 threatened irreparable injury as would justify
5 imposing on defendants and the public the extra cost
6 of expedited proceedings.

7 Here, the plaintiff's claim is
8 colorable. Now, I emphasize that that's a low bar,
9 and in order to determine colorability, I accept the
10 allegations as pled as true. That's a legal
11 obligation of the Court when faced with a motion of
12 this nature.

13 Here, the plaintiff seeks an
14 injunction to protect the Denney family from targeted
15 picketing that interferes with residential privacy.
16 The United States Supreme Court held in *Teamsters v.*
17 *Vogt* that a State may enjoin peaceful picketing where
18 the injunction is aimed to uphold "some public policy,
19 whether of its criminal or its civil law, and whether
20 announced by its legislature or its courts."

21 In *Murray v. Lawson*, the Supreme Court
22 of New Jersey granted a physician's petition to
23 restrain anti-abortion protestors from picketing in
24 front of his home to uphold the public policy of the

1 state favoring residential privacy. And it's on this
2 case that the State bases its motion, in large part.

3 Because the relief sought here, as in
4 *Murray*, affects the defendants' freedom of speech,
5 I'll pause to discuss the legal principles implicated.

6 Justice Holmes once said that "The
7 best test of truth is the power of [a] thought to get
8 itself accepted in the competition of the market."
9 And that's a quote from the United States Supreme
10 Court's decision and Justice Holmes' dissent *Abrams v.*
11 *United States*. This concept, the "marketplace of
12 ideas," has permeated First Amendment case law since.
13 Freedom of speech is, to put it mildly, a sacred right
14 in our Republic and carefully guarded by our courts.

15 But even protected conduct can be
16 regulated. And when determining whether to regulate
17 speech, as a starting point, courts "ascertain what
18 limits, if any, may be placed on [the] protected
19 speech" by "focus[ing] on the 'place' of that speech,
20 considering the nature of the forum the speaker seeks
21 to employ." That's a quote from the United States
22 Supreme Court's decision in *Frisby v. Schultz*.

23 In this exercise, the Court
24 distinguishes between the public forum, the forum

1 created by government designation, and the nonpublic
2 form. The public street is "the archetype of a
3 traditional public forum," to quote again from *Frisby*,
4 and it does not lose that designation simply because
5 it runs through a residential neighborhood.

6 Given the public nature of the situs,
7 "the government may not prohibit all communicative
8 activity" in the forum. And that's a quote from the
9 United States Supreme Court decision in *Perry*.

10 Here, however, the limited nature of
11 the injunction sought does not prohibit all
12 communicative activity. In essence, the injunction
13 would create a picket-free zone as opposed to a picket
14 prohibition. That is, the relief sought would not
15 "forbid entirely the publication of [the defendants']
16 message."

17 So for this reason, it doesn't seem to
18 be a "prior restraint," although the parties are free
19 to argue that at a later time. And I draw upon the
20 follow-on decision in *Murray v. Lawson*, not the *Murray*
21 decision relied on by the plaintiff in this case but
22 the later decision that was issued post-*Madsen*.
23 That's published at 649 A.2d 1253, and I'll refer to
24 that decision as *Murray II*.

1 Under *Madsen* and *Murray II*, this Court
2 evaluates the restrictions sought under one of two
3 standards. For an ordinance restricting public speech
4 to be enforceable, the time, place, and manner
5 analysis of constitutional law applies. And that's to
6 say that the State may enforce regulations of the
7 time, place, and manner of expression, which are
8 content-neutral, narrowly tailored to serve a
9 significant government interest, and leave open ample
10 alternative channels of communication.

11 Where the restriction comes in the
12 form of an injunction and not some generalized
13 ordinance or regulation, however, the heightened
14 standard articulated in *Madsen* applies. Under *Madsen*,
15 the injunction must be shown to not "burden[] more
16 speech than necessary to accomplish its goal."

17 So that's the legal framework. The
18 plaintiff has stated a colorable claim that there is a
19 common law policy interest in protecting residential
20 privacy in this state. And that argument is,
21 likewise, sufficient to demonstrate a likelihood of
22 irreparable harm absent expedited relief. Let me
23 explain.

24 As I understand it, in its usual form,

1 the marketplace of ideas that undergirds our First
2 Amendment rights assumes some element of free
3 exchange. Typically, the listener can avoid speech
4 they don't want to hear by, for example, walking away.
5 But in the words of the Supreme Court's *Frisby*
6 decision, "the home is different." And our high court
7 has treated it as such, "often remark[ing] on the
8 unique nature of the home," describing it as "the last
9 citadel of the tired, the weary, and the sick"
10 That's another quote from *Frisby*.

11 "Preserving the sanctity of the home,
12 the one retreat to which men and women can repair to
13 escape from the tribulations of their daily pursuits,
14 is surely an important value." "The State's interest"
15 -- a quote from *Carey v. Brown* -- "in protecting the
16 well-being, tranquility, and privacy of the home is
17 certainly of the highest order in a free and civilized
18 society." So the State's interest in protecting
19 residential privacy is evident here.

20 It's the unique nature of the home
21 that makes residential picketing a particularly
22 effective form of activism because it reaches people
23 in their place of retreat where the target has no
24 choice but to listen. That's also what constitutes

1 the flaw of residential picketing. When an idea is
2 blasted into the sanctity of a person's home, the
3 exchange ceases to be a free one and verges on
4 coercive. At times, the conduct can seem less
5 designed to express ideas and more designed to harass
6 the listener. I'm not saying that that's the case
7 here, but that's the danger of residential picketing.

8 This concern -- which is not my own
9 and which has been more fully developed by judges and
10 scholars more schooled in this area -- was top of mind
11 when I read the allegations in the complaint. Again,
12 those allegations have not been proven, but they do
13 demonstrate that aspects of the plaintiff's claims
14 here are certainly colorable and that there is harm to
15 the Denney family should this case not be expedited.

16 In any event, the irreparable harm
17 element is met, there is a colorable claim, and that
18 warrants expedition of this case.

19 I'll note that the plaintiff is going
20 to need to show, among other things, that the
21 injunction sought is no more burdensome than
22 necessary. And I refer the plaintiff's counsel to the
23 *Murray II* decision where the Court concluded that a
24 300-foot no picketing zone failed under the *Madsen*

1 test, that is, it was overbroad, and aspects of those
2 post-*Madsen* decisions that similarly evaluate the
3 sorts of relief that the plaintiff is requesting here.

4 In any event, that's my ruling,
5 expediting the case.

6 And for the benefit of the defendants,
7 primarily, I'll note that when you expedite a case, it
8 just means that you anticipate the parties will move
9 forward on a fast pace, which is appropriate here
10 given the gravity of the issues underlying the
11 litigation.

12 I recognize that you would like to
13 obtain counsel, and you can. So, again, I will offer
14 to help you line up *pro bono* counsel, if that's what
15 you desire. And in order to, you know, take me up on
16 that offer, you just need to call my assistant. And
17 the number is on the Court's website.

18 I also want to make one other offer to
19 the parties. It seems to me that this is the kind of
20 case that calls out for mediation, where reasonable
21 minds who are passionate and dedicated to their
22 respective callings can get together and design a way
23 in which free speech can be accomplished at no expense
24 to the Denney family's interests.

1 And in the Court of Chancery, we offer
2 mediation by our fellow judges. So I could ask a
3 colleague, like Vice Chancellor Slights, to come in
4 and help the parties reach resolution amicably on the
5 issues presented. We would typically charge fees for
6 this service, but here, those fees would be waived.

7 So mediation is an option. *Pro bono*
8 counsel is an option. The TRO is denied. The case is
9 expedited.

10 With that, are there any questions?

11 MS. DAVIS: None from the State, Your
12 Honor. Thank you.

13 THE COURT: Ms. Ray or Ms. Kelly?

14 MS. KELLY: No, but thank you for the
15 offers. I do appreciate them.

16 THE COURT: Thank you.

17 So one of the reasons why I went into
18 the law in this ruling is because it's transcribed.
19 So a transcript of this bench ruling will be available
20 to any future counsel you obtain, Ms. Ray and
21 Ms. Kelly. And they can look at what I've identified
22 as the governing standard and either argue under it or
23 tell me why it's wrong.

24 So with that, thank you for your time

1 this morning. We are adjourned.

2 MS. DAVIS: Thank you, Your Honor.

3 MS. RAY: Thank you.

4 MR. IGWE: Thank you, Your Honor.

5 (Proceedings concluded at 10:31 a.m.)

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CERTIFICATE

I, JEANNE CAHILL, Official Court Reporter for the Court of Chancery for the State of Delaware, Registered Diplomate Reporter and Certified Realtime Reporter, do hereby certify that the foregoing pages numbered 3 through 28 contain a true and correct transcription of the rulings as stenographically reported by me at the hearing in the above cause before the Chancellor of the State of Delaware, on the date therein indicated, except as revised by the Chancellor.

IN WITNESS WHEREOF I hereunto set my hand at Wilmington, this 8th day of September, 2021.

/s/ Jeanne Cahill

Jeanne Cahill
Official Court Reporter
Registered Diplomate Reporter
Certified Realtime Reporter